



23 July 2004

Ms. Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: SEI Data, Inc.
CC Docket No. 96-45 (DA 04-1646)
Petition for Waiver of Filing Deadlines in 47 C.F.R 54.802(a)

Dear Ms Dortch:

This letter is being provided as a follow-up to a conversation with Commission staff on July 19, 2004 in which SEI Data, Inc. ("SEI") provided additional information regarding the waiver request referenced above, originally filed by SEI in March 2004. This petition requests that SEI's quarterly IAS line count for lines served as of September 30, 2003 be accepted as timely filed, even though it was filed after the December 31, 2003 deadline.

In the original petition and in other supporting documentation, SEI explains the extenuating circumstances which caused the line count to be filed late. SEI further contends that the public interest will be served by the granting of the waiver request, because it will further SEI's ability to provide competitive, facilities-based services of superior quality to those otherwise available to consumers in the Madison, IN service area, while not significantly affecting the size or stability of the IAS fund.

But the purpose of this letter is to correct the information provided to the Commission regarding loss of IAS support, and to explain the clarification that SEI received from USAC on this issue on July 15, 2004. As you know, the December 31, 2003 IAS line count filing is intended to be the basis of support for January, February, and March IAS support. It was SEI's understanding that only the IAS support for these three months would be affected by the late filing, and that granting of the waiver request would allow SEI to receive full support for these three months. SEI estimated the dollar figured involved to be just under \$4000, and provided this figure to the Commission.

But in a July 15, 2004 conversation with USAC staff, SEI learned that the late filing has actually caused SEI to lose support for approximately an additional 1.5 months (or about \$1700), above beyond the three months of 1st Quarter 2004. This is due to the true-up process that USAC uses to

determine the average lines being served during a particular quarter. SEI will explain the impact of this true-up to the best of its ability:

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SEI submitted a timely IAS line count filing in September 2003 of its total lines being served as of June 30, 2003. SEI also submitted a timely IAS line count filing in March 2004 of its total lines being served as of December 31, 2003. But in between, SEI made a late filing of the line count due December 31, 2003, showing its total lines being served as of September 30, 2003. To be clear, only one quarterly filing was made late, and only one filing is the subject of the waiver request.

But USAC's true-up process essentially forces it to assume that SEI's lines in service dropped to zero at some point during the 4th Quarter of 2004 because of the one late filing. So in order to derive an "average" line count, USAC effectively cuts in half the support that SEI received for 4th Quarter 2003. The practical effect of this true-up is that USAC withheld SEI's entire April 2004 IAS payment, and withheld \$546 from SEI's May 2004 IAS payment. Only in June 2004 and thereafter will SEI's IAS payments be made in full.

SEI understands that USAC must have a true-up process in order to calculate average lines served. USAC's true-up procedure serves that purpose very well in most cases. But in this case, the true-up actually paints an obviously inaccurate scenario under which SEI's lines in service dropped to zero during 4th Quarter of 2003, stayed at zero during 1st Quarter 2004, and then rose back to its present total in 2nd Quarter 2004. Even though SEI's one late line count filing was received well before the true-up was executed, USAC feels that it cannot use this line count filing for the true-up unless SEI's waiver request is granted. USAC position is that only if the waiver request is granted can this line count filing be treated as timely filed, and thus used for the true-up.

SEI's purpose at this time is not to question or dispute USAC's true-up process. But in this case, the true-up process simply does not produce a result that is consistent with the underlying intent of the quarterly line count filing requirement or the reality of the service that SEI provided. SEI feels that the intent of 47 C.F.R. 54.802(a) is that each quarterly line count is to serve as the basis of support for the succeeding three months following the filing, with the true-up simply serving to average the actual lines served during the quarter and served during the year. But in this case, the result of the true-up is that one late filing will lead to the total elimination of roughly 4.5 months' worth of support, not just the three months' worth of support actually associated with the late filing.

Section 1.925(b)(3) of the Commission's rules provides for waiver where it is shown that, "The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case".

SEI feels that in addition to showing good cause, and showing that its waiver request is in the public interest, the underlying purpose of the quarterly line count filing rules will also be frustrated if the waiver request is not granted. We do not believe that the line count filing rules intend for IAS support to be lost during months for which a timely and complete quarterly filing was made. Yet, this is the practical result that is yielded due to the true-up process. Fortunately, USAC has stated that the support deducted from the April and May 2004 support payments will be restored, along with 1st Quarter 2004 support, if SEI's original waiver request is granted. USAC states that granting of the waiver request will allow the one late-filed line count to be treated as timely, and so it can then be used to re-calculate the affected true-up. So granting of the waiver request will allow USAC to perform a true-up that accurately reflects the lines that SEI served from 3rd Quarter 2003 through 1st Quarter 2004, and thus will much better serve the underlying purpose of the quarterly line count filing rules found in 47 C.F.R. 54.802.

SEI apologizes for not including this information in its earlier filings. But our original conversations with USAC assured us that only support received for 1st Quarter 2004 would be affected by the late filing. It was not until July 15 that we learned of the impact on 4th Quarter 2003 support, and that the reductions were actually being made to the April and May 2004 support payments. I appreciate the opportunity to present this new information, so that the Commission has full and accurate information with regard to the waiver request.

I also appreciate the Commission's consideration of this information and of SEI Data's waiver request. Please contact me if you need further information. Thank you.

Respectfully submitted,



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